



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 12/18/2020

ORM Number: LRH-2020-724-LKR

Associated JDs: N/A

Review Area Location¹: State/Territory: West Virginia City: Ripley County/Parish/Borough: Jackson

Center Coordinates of Review Area: Latitude 38.45568 Longitude -81.4913

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	0.49	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Wetland 2	0.05	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is a non-jurisdictional wetland under 33 CFR 328.3(b)(1). Reference Section III B of this AJD form for typical year assessments.
Ditch 1	630	Linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 1 is an ephemeral, man-made feature created in uplands, is not a water of the United States per 33 CFR 328.3(a)(1) or (2), is not constructed in an (a)(4) water and does not satisfy the conditions of (c)(1), is not considered a water of the United States per 33 CFR 328.3(b)(5), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.
Ditch 2	70	Linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 2 is an ephemeral, man-made feature created in uplands, is not a water of the United States per 33 CFR 328.3(a)(1) or (2), is not constructed in an (a)(4) water and does not satisfy the conditions of (c)(1), is not considered a water of the United States per 33 CFR 328.3(b)(5), and is not subject to regulation under Section 404. Reference Section III B of this AJD form for typical year assessments.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Wetland Delineation and Stream Identification Report for the Ripley WWTP Project \(Revised 15 September 2020\)](#)

This information is sufficient for purposes of this AJD.

Rationale: [The information provided by or on behalf of the applicant accurately reflects the district's conclusions on the aquatic resources within the geographic boundary of the AJD Review Area.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Historic Aerials \(1996-2015; dated July 2020\), Aquatic Features Map \(September 2020\) & Photographs \(Appendix B\); dated 6 June 2018 and 24 July 2020](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Web Soil Survey Report, July 2020
- USFWS NWI maps: NWI/Soil Map, July 2020
- USGS topographic maps: Site Location Map (Figure 1); July 2020

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Other than the USGS map listed above, no other USGS sources were used.
USDA Sources	Other than the Web Soil Survey Report listed above, no other USDA sources were used.
NOAA Sources	N/A.
USACE Sources	N/A
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): A typical year occurs over a rolling thirty-year period and includes the analysis of precipitation and other climatic variables to establish a normal periodic range (seasonally or annually) for a specific geographic region where the aquatic resource occurs. Two (2) point-in-time data sources, one (1) for the original site investigation on 6 June 2020 and one (1) for the most recent site investigation on 24 July 2020, with a corresponding Antecedent Precipitation Tool (APT) report, were included in the evaluation for the excluded wetlands listed in Section II D Wetland 1 and Wetland 2.

According to the APT report for 6 June 2020, wetter than normal conditions were observed during the dry season with a Palmer Drought Severity Index (PDSI) Value of 4.06 (extreme wetness). The antecedent precipitation condition with a score of 17 is considered “wetter than normal” for that point in time.

According to the APT report of 24 July 2020, wetter than normal conditions were observed during the wet season with a PDSI Value of 3.47 (severe wetness). The antecedent precipitation condition with a score of 12 is considered “normal conditions” for that point in time.

The periodic range used for these typical year assessments was the three (3) 30-day periods preceding each observation date at the nearest available weather station at Charleston Yeager Airport, approximately 7.50 miles east of the AJD Review Area within the Upper Ohio-Little Kanawha watershed in Hydrologic Unit Code (HUC) 05030202. This geographic range is appropriate because it is the same 8-digit HUC as the aquatic resources within the geographic boundary of the AJD Review Area.

C. Additional comments to support AJD: 33 CFR 328.3(b)(1) - In June 2020, no (A)(1)-(A)(4) waters were observed to be abutting Wetland 1 or Wetland 2. Additionally, during the re-evaluation in July 2020, no (A)(1)-(A)(4) waters were observed to be abutting Wetland 1 or Wetland 2. It has been determined that the wetlands listed in Section II D of the enclosed AJD are not waters of the United States per 33 CFR 328.3(b)(1), and are not subject to regulation under Section 404.

33 CFR 328.3(b)(5) - It has been determined that Ditch 1 and Ditch 2, listed in Section II D above, exhibit ephemeral flow, are man-made features constructed in uplands, and are not considered waters of the United States per 33 CFR 328.3(b)(5). Therefore, Ditch 1 and Ditch 2 are not subject to regulation under Section 404.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

Table 1: Non-jurisdictional waters associated with the AJD Review Area for the Ripley WTPP Project (LRH-2020-724-LKR)

Waterway name	Latitude & Longitude		Area (Acres or linear feet)	Cowardin Class	Regulatory Authority
(°)	(°)				
Wetland 1	38.45568	-81.49119	0.49 ac	PEM	None; excluded under (b)(1)
Wetland 2	38.45622	-81.49044	0.05 ac	PEM	None; excluded under (b)(1)
Ditch 1	38.821847	-81.718242	630 lf	Ephemeral	None; excluded under (b)(5)
Ditch 2	38.822147	-81.7188849	70 lf	Ephemeral	None; excluded under (b)(5)